



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0661]

RIN 1625-AA00

Safety Zone; Alpena Area HOG Rally Fireworks, Alpena, Michigan.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Captain of the Port, Sault Sainte Marie zone. This safety zone is intended to restrict vessels from certain portions of water areas within Sector Sault Sainte Marie Captain of the Port zone, as defined by Coast Guard regulations. This temporary safety zone is necessary to protect spectators and vessels from the potential hazards associated with fireworks displays.

DATES: This rule is effective from 9:30 p.m. until 11:30 p.m. on July 27, 2013.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2013-0661 and are available online by going to www.regulations.gov,

inserting USCG-2013-0661 in the "SEARCH" box, and then clicking "search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST1 Thomas Link, U.S. Coast Guard Sector Sault Sainte Marie, telephone 906-253-2443, email at Thomas.a.link@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice

and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable. The final details for this event were not received by the Coast Guard with sufficient time to publish an NPRM. Thus, delaying this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public from the potential hazards associated with maritime fireworks displays.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, a 30 day notice period would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department

of Homeland Security Delegation No. 0170.1.

On the evening of July 27, 2013, the Michigan Harley Owners Group will conclude a rally in Alpena, Michigan with a fireworks display. Fireworks will be launched near the end of Mason Street, South of State Avenue, approximately 50 yards west of Thunder Bay in Alpena, Michigan. The Captain of the Port, Sault Sainte Marie has determined that the fireworks event poses hazards to the public, including collisions among spectator craft and debris falling into the water.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Sault Sainte Marie has determined that this temporary safety zone is necessary to ensure the safety of vessels and people during the fireworks event. The temporary safety zone will encompass all U.S. waters of Lake Huron within an 800-foot radius of the fireworks launch site located near the end of Mason Street, South of State Avenue, at position 45°02'42" N, 083°26'48" W (NAD 83). The safety zone will be effective and enforced from 9:30 p.m. to 11:30 p.m. on July 27, 2013.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sault Sainte Marie or his designated representative.

All persons and vessels permitted to enter the safety zone established by this rule shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security. We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely

alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

The safety zone created by this rule will be small and enforced for only two hours. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor within the 800-foot radius of the launch site on the evening of July 27, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will only be enforced for two hours. Vessels may safely pass outside the safety zone during the event. In the event that this temporary safety zone affects vessel traffic, vessels may request permission from the Captain of the Port Sault Sainte Marie to transit

through the safety zone. Additionally, the Coast Guard will give notice to the public via a Local Notice to Mariners that the regulation is in effect.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are

available in the docket USCG-2013-0661 where indicated
under ADDRESSES

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting
and record keeping requirements, Security measures,
Waterways.

For the reasons discussed in the preamble, the Coast
Guard amends 33 CFR parts 165 as follows:

PART 165-REGULATED NAVIGATION AREAS AND LIMITED ACCESS
AREAS

1. The authority citation for Part 165 continues to
read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306,
3703; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and
160.5; Pub. L 107-295, 116 Stat. 2064; Department of
Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0661 to read as follows:
§ 165.T09-0661 Safety Zone; Alpena Area HOG Rally
Fireworks, Alpena, Michigan.

(a) Location. The following area is a temporary
safety zone: All U.S. navigable waters of Lake Huron within
an 800-foot radius of the fireworks launch site located
near the end of Mason Street, South of State Avenue in
Alpena, Michigan, at position 45°02'42" N, 083°26'48" W

(NAD 83) .

(b) Effective and enforcement period. This rule is effective and will be enforced from 9:30 p.m. until 11:30 p.m. on July 27, 2013.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Sault Sainte Marie or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Sault Sainte Marie or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Sault Sainte Marie is: any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Sault Sainte Marie to act on his or her behalf. The on-scene representative of the Captain of the Port Sault Sainte Marie will be aboard

either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Sault Sainte Marie, or his on-scene representative to obtain permission to do so. The Captain of the Port Sault Sainte Marie or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Sault Sainte Marie or his on-scene representative.

Dated: July 17, 2013

S. C. TESCHENDORF

Captain, U. S. Coast Guard
Captain of the Port, Sault Sainte Marie

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